

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11526 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

1 & 2: Yes 3 to 5: No

MAINAVATI

Versus

OIL AND NATURAL GASW CORPORATION LTD.

Appearance:

MR IS SUPEHIA for Petitioner

MR RAJNI H MEHTA for Respondent No. 1, 2

CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 18/04/98

ORAL JUDGEMENT

1. The petitioner is the mother of the deceased employee of the respondent-ONGC who died while in service and has claimed that a sum of Rs. 10000/- be paid to her from the ONGC Benevolent Fund Scheme. An amount of Rs. 1000/- was paid to her. However, the balance amount of Rs.9000/- is not paid.

It is the case of the respondent that the petitioner cannot be said to be the dependent of her unmarried son because she was also a dependent of her husband who was also in the service of ONGC. It is contended that one cannot be dependent of two persons. This is wholly untenable in law. There is no such bar. The unmarried son had only one dependent i.e. his mother and merely because the mother is also dependent upon her husband, is no ground to hold that she is not dependent on her son. Therefore, this petition is required to be allowed by directing that the respondent shall pay to the petitioner the remaining sum of Rs. 9000/- from ONGC Benevolent Fund Scheme in respect of death of her son while in service of the respondent.

2. The petitioner has also prayed for interest at the rate of 18% per annum from the date of death of her son i.e. 19.8.1980 till the date of payment.

3. On behalf of the respondents, it is submitted that since this is a benevolent scheme, interest may not be granted. In any case, it is submitted that the petition is grossly delayed and filed in 1994 and, therefore, the interest for the intervening period may not be granted and if at all, it is to be granted, then it may be granted from 1994.

4. It is seen that under para 9 of the Scheme, there is a contribution by each employee and under para 10, there is a matching contribution by the Commission. It is also seen from clause 5(c) of the scheme that the funds of the Benevolent Scheme are invested and interest is earned. The duties and powers of the Managing Committee in para 15 also show that the Managing Committee shall invest and control the working of the fund. It is, thus, seen that under the Scheme, interest was continued to be earned on the amount which was due to be paid and not paid to the petitioner. Therefore, the delay has not at all in any manner hurt or prejudiced the respondents. The respondent has continued to earn interest of the said amount and, therefore, the petitioner is entitled to the interest from the date of death of her son. However, such interest cannot be at the rate of 18% as claimed by the petitioner, but it shall be only at the rate of 9%, from the date of death of the son of the petitioner i.e. 19.8.1980 till the date of payment.

5. In the result, the petition succeeds and rule is made absolute by directing the respondent-Commission to pay to the petitioner a sum of Rs.9000/- with interest at

the rate of 9% p.a. from 19.8.1980 till the date of payment. This payment shall be made within two months from today.

mhs/-